



Agenda Date: 09/24/03

Agenda Item: LS A

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

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CABLE TELEVISION

IN THE MATTER OF THE ALLEGED FAILURE OF)
PATRIOT MEDIA AND COMMUNICATIONS CNJ, LLC)
TO COMPLY WITH PROVISIONS OF THE NEW JERSEY)
CABLE TELEVISION ACT, N.J.S.A. 48:5a-1 et seq.,)
AND/OR THE NEW JERSEY ADMINISTRATIVE CODE,)
N.J.A.C. 14:18-1.1 et seq.)

ORDER ACCEPTING
OFFER OF SETTLEMENT

DOCKET NO. CO03090706

(SERVICE LIST ATTACHED)

BY THE BOARD:

Patriot Media and Communications CNJ, LLC ("Patriot") with its principle office located at 100 Randolph Road, First Floor, Somerset, New Jersey 08873, is a cable television system operator which provides cable television services to approximately 81,000 New Jersey subscribers in the Townships of Bedminster, Branchburg, Hillsborough, Montgomery, Franklin (Somerset), Chatham, Harding, Long Hill, Bethlehem, Clinton, Delaware, East Amwell, Flemington, Franklin (Hunterdon), Raritan, Readington, Union, Chester, Tewksbury, Mendham and Princeton, the Boroughs of Princeton, Bernardsville, Far Hills, Mendham, Millstone, Peapack & Gladstone, Rocky Hill, Lebanon and Chester and the Town of Clinton.

The Board's Office of Cable Television Inspection and Enforcement Bureau (hereinafter "Office" or "OCTV"), after conducting a routine compliance review and serving notice of its allegations on Patriot has alleged that Patriot did not conform to certain provisions of the New Jersey State Cable Television Act, N.J.S.A. 48:5A-1 et seq. and the New Jersey Administrative Code, N.J.A.C. 14:18-1.1 et seq., as more specifically set forth herein below. The aforementioned statutes and regulations require all cable systems in New Jersey to provide protection to the cable consumer.

As a result of correspondence, telephone conversations and settlement conferences between Patriot and the OCTV, Patriot, on September 16, 2003, submitted an Offer of Settlement to the Board concerning the following alleged non-conforming practices:

1. that Patriot failed to comply with FCC Consumer Service Standards (30 second hold time) as required by 47 C.F.R. §76.309(c) during the second quarter of 2003.
2. that Patriot failed to comply with FCC Customer Service Standards (3% busy) as required by 47 C.F.R. §76.309(c) during the second quarter of 2003.

3. that Patriot failed to file and maintain complete tariffs showing all rates, terms, conditions of service and service packages and disclose same to their customers as required by N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, N.J.A.C. 14:18-3.16(a)1 and 2, N.J.S.A. 48:5A-11 and N.J.S.A. 48:5A-36(b).
4. that Patriot failed to provide its subscribers with quarterly notification of the availability of outage credits as outlined in N.J.A.C. 14:18-3.5, and required by N.J.A.C. 14:18-3.18(b)1.
5. that Patriot failed to provide its subscribers with quarterly notification of the complaint officer and the Office's toll free telephone number as required by N.J.S.A. 48:5A-26(c) and N.J.A.C. 14:18-3.18(b)2.
6. that Patriot failed to provide its subscribers with the correct name, address and/or telephone number of its cable television company, on its monthly billing statements and any other separate fees for service on the bills pursuant to N.J.A.C. 14:18-3.7(a)1 and N.J.A.C. 14:18-3.7(a)8.
7. that Patriot failed to comply with the Board Order in Docket No. CM02090653, by failing to file certification with the Board within 30 days attesting to the lack of material deviation in the executed closing documents and failing to provide executed copies of the Form of Regulatory Opinion (Exhibit G) and the Form of NJ Regulatory Opinion (Exhibit K) of the Purchase Agreement within 30 days of closing date and failing to file purchase price allocation as required by Section 2.5 of the Purchase Agreement no later than 30 days after the closing date pursuant to N.J.A.C. 14:17-11.1.
8. that Patriot further failed to comply with the Board Order in Docket No. CM02090653, by failing to file certification with the Board within 90 days that all New Jersey cable television systems under its ownership and/or control, are in full compliance with Article 820 of the National Electrical Code as previously certified, that all Board Ordered requirements or conditions arising out of any and all Offers of Settlement and/or Certificates of Approval have been or are being satisfied within the time frame set forth therein; that sufficient funds will be available to fund all outstanding network extensions, rebuilds, upgrades, or other construction commitments arising from a system's Primary Service Area (PSA), Certificate of Approval, Municipal Consent, Letters of Intent or other Orders or agreements including but not limited to the Board Order in Docket No. CX01070460 and documentation provided subsequent thereto; and that billing records are available for all customers in New Jersey cable television systems under its ownership and/or control for three (3) years in accordance with N.J.A.C. 14:18-3.7.
9. that Patriot failed to comply with the Board Order in Docket No. CM03020092, by failing to notify the Board within 5 days of the date on which the transaction consummated (closing date) and failing to file a certification with the Board within 30 days of the closing date attesting to the lack of material deviation in the executed closing documents and failing to file journal entries to record the transaction within 45 days of the closing date pursuant to N.J.A.C. 14:17-11.1.
10. that Patriot failed to file periodic Telephone System Performance reports with the Office as required by N.J.A.C. 14:18-7.7 for 2003.

Patriot submitted its monetary Offer of Settlement in the amount of \$42,800.00 in order to resolve all issues concerning the violations alleged by the Office. The Offer represents a reasonable settlement in view of the alleged violations.

As part of its Offer of Settlement, Patriot has agreed to the following remedial action:

1. To provide refunds to its customers for any installation activities charged to customers that are not covered by its or RCN's prior tariff between February 19, 2003, the date it assumed ownership and control of the cable system, and November 1, 2003, when its proposed rates for those activities are scheduled to go into effect pursuant to filing of FCC Form 1205.
2. To submit to the OCTV within 30 days of the Board's Order approving its Offer of Settlement, detailed refund liability calculations for all installation activities cited in paragraph 1, plus interest using the IRS rates for over and underpayments utilized by the FCC, compounded daily from February 19, 2003 through the date of distribution. Said refund shall be denominated "BPU Refund" and shall be distributed among all affected subscribers during a future billing cycle which shall commence as soon as reasonably practicable, but not later than 30 days after OCTV approval of the refund liability statement.
3. To modify, within 60 days of the issuance of the Board's Order approving its Offer of Settlement, the format of subscriber bills to include the following so as to:
 - a. identify each service for which a separate charge is imposed as required by N.J.A.C. 14:18-3.7(a)2.
 - b. identify any other separate fees as required by N.J.A.C. 14:18-3.7(a)8.
 - c. include the correct name, address and/or telephone number of Patriot's customer service department as required by N.J.A.C. 14:18-3.7(a)1.
4. To modify its procedures effective as of the date of its Offer of Settlement so as to:
 - a. ensure its subscribers have adequate access to company personnel by answering subscriber phone calls within the 30 second hold time as required by 47 C.F.R. §76.309(c).
 - b. ensure its subscribers have adequate access to company personnel by answering subscriber phone calls within the 3% busy standard as required by 47 C.F.R. §76.309(c).
 - c. ensure that going forward it files periodic Telephone System Performance reports with the Office as required by N.J.A.C. 14:18-7.7
 - d. ensure that complete tariffs showing all rates, terms, conditions of service and service packages are filed and maintained and disclose same to the subscribers as required by N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, N.J.A.C. 14:18-3.16(a)1 and 2, N.J.S.A. 48:5A-11 and N.J.S.A. 48:5A-36(b).

- e. ensure that appropriate quarterly and annual notices are sent to subscribers in accordance with N.J.S.A. 48:5A-26(c), N.J.A.C. 14:18-3.5 and N.J.A.C. 14:18-3.18. The company shall provide verified proof to the Office of the quarterly and annual notices in the form of a true copy of the notices sent and proof of mailing within thirty (30) days of the completion of such notices.
- f. ensure that the periodic notification of the complaint officer and the Office's telephone number is provided to the subscribers as required by N.J.S.A. 48:5A-26(c) and N.J.A.C. 14:18-3.18(b)2.
- g. ensure that the correct name, address and/or telephone number of Patriot's customer service department appears on its monthly billing statements and any other separate fees for service on the bills as required by N.J.A.C. 14:18-3.7(a)1 and N.J.A.C. 14:18-3.7(a)8.

The Office will monitor Patriot or its successor's future notice requirements, billing practices and procedures and record keeping as set forth in the New Jersey Administrative Code.

The Board has reviewed the matter and HEREBY FINDS it to be reasonable. Therefore, the Board HEREBY ACCEPTS the Offer of Settlement proffered by Patriot subject to the following provisions, conditions and/or limitations:

- 1. Patriot shall tender \$42,800.00 to the Department of Education, State of New Jersey, to support educational programs, within fifteen (15) days of the Board's acceptance of the Offer of Settlement. These funds are to be made available for the Department of Education's P-12 Higher Education Partnership Grants and the Schools of Excellence programs in public schools and private special need schools in the impacted service area, which includes portions of Hunterdon, Mercer, Morris, and Somerset counties.
- 2. Patriot shall, within 30 days of the issuance of this Order, submit detailed refund liability calculations to the OCTV for all installation activities charged to customers that are not covered by its or RCN's prior tariff between February 19, 2003, the date it assumed ownership and control of the cable system, and November 1, 2003, plus interest, using the IRS rates for over and underpayments utilized by the FCC, compounded daily from February 19, 2003 through the date of distribution.
- 3. Patriot, within 30 days of the approval of a refund plan by the OCTV, shall cause a separately itemized bill credit to be applied to the bills of entitled subscribers. Said credits shall be identified as "BPU Refund."
- 4. Patriot shall, within ten (10) days of effectuating the entire refund to the applicable subscribers, certify in writing to the OCTV that the refunds have been completed, and the date(s) the refunds were paid; the amounts refunded per subscriber, per installation activity; the total number of refunds per installation activity and the aggregate total refund.
- 5. Patriot shall, on an on-going basis, provide verified proof to the OCTV that all required quarterly and annual notices are sent to subscribers in accordance with N.J.S.A. 48:5A-26(c), N.J.A.C. 14:18-3.5 and N.J.A.C. 14:18-3.18 in the form of a

true copy of the notices sent and proof of mailing within thirty (30) days of the completion of such notices.

Verified proof that all required quarterly and annual notices are sent to subscribers, a true copy of the notices sent and proof of mailing, shall be filed by Patriot with the Director of the OCTV within 15 days of the end of the quarter or annual period for which the notice is required.

6. Patriot shall provide verified proof to the OCTV no later than November 30, 2003, that:
 - a. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that subscriber phone lines are answered within the 30 second hold time as required by 47 C.F.R. §76.309(c).
 - b. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that subscriber phone lines are answered within the 3% busy standard as required by 47 C.F.R. §76.309(c).
 - c. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that going forward it files periodic Telephone System Performance reports with the Office as required by N.J.A.C. 14:18-7.7.
 - d. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that complete tariffs showing all rates, terms, conditions of service and service packages are filed and maintained and disclose same to the subscribers as required by N.J.A.C. 14:18-3.3(d), N.J.A.C. 14:18-3.4, N.J.A.C. 14:18-3.16(a)1 and 2, N.J.S.A. 48:5A-11 and N.J.S.A. 48:5A-36(b).
 - e. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that appropriate quarterly and annual notices are sent to subscribers in accordance with N.J.S.A. 48:5A-26(c), N.J.A.C. 14:18-3.5 and N.J.A.C. 14:18-3.18.
 - f. the appropriate corrective action was implemented as of the date of its Offer of Settlement to include the correct name, address and/or telephone number of Patriot's customer service department, and the correct address to remit payment and any other separate fees for service on its monthly billing statements as required by N.J.A.C. 14:18-3.7(a)1 and N.J.A.C. 14:18-3.7(a)8.
 - g. the appropriate corrective action was implemented as of the date of its Offer of Settlement to ensure that going forward it files periodic Telephone System Performance reports with the Office as required by N.J.A.C. 14:18-7.7 and in accordance with the terms of the Offer of Settlement.
7. The Board's acceptance of the Offer of Settlement is for the purposes of this proceeding only, addresses only those specific allegations and timeframes addressed in the Offer of Settlement and shall not be construed as limiting

the Board's authority in any other matter affecting Patriot or any successor company.

8. For the purposes of assessing penalties for future offenses by Patriot, its assigns or successors that may now or in the future operate the cable television system that is the subject of the Offer of Settlement, such future offenses shall be considered third or subsequent offenses, in accordance with N.J.S.A. 48:5A-51(b).

DATED: 10/01/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY

**IN THE MATTER OF THE ALLEGED FAILURE OF PATRIOT MEDIA AND
COMMUNICATIONS CNJ, LLC TO COMPLY WITH PROVISIONS OF
THE NEW JERSEY CABLE TELEVISION ACT, N.J.S.A. 48:5A-1 et seq.,
AND THE NEW JERSEY ADMINISTRATIVE CODE, N.J.A.C. 14:18-1.1 et seq.**

OFFER OF SETTLEMENT

DOCKET NO. CO03090706

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